

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TYRONE GREEN,

Plaintiff,

1:14cv0159
ELECTRONICALLY FILED

v.

RAYMOND BURKHART,
JOHN HAGGERTY, JOHN GILARA,
DANIEL PACK, JOHN CHILES, and
SERGEANT CHERNOSKY,

Defendants.

**MEMORANDUM ORDER DENYING PLAINTIFF'S MOTION TO DEEM CLAIMS
AGAINST JOHN DOE/MILLER AS ADMITTED ([DOC. NO. 206](#))**

At the Pretrial Conference on June 29, 2017, Plaintiff Tyrone Green presented a Motion to Deem Claims Against John Doe/Miller as Admitted, which the Court accepted for filing on the ECF system. [Doc. No. 206](#). Defense Counsel reviewed the one-page motion at the conference and the following day filed Objections to Plaintiff's Request to Enter Judgment Against Doe Defendant "Officer Miller." [Doc. No. 203](#).

Plaintiff asserts that "prison officials purposefully concealed the identity" of an individual originally named as a "John Doe" Defendant in the first Amended Complaint. [Doc. No. 206](#), [Doc. No. 9](#). In discovery, Plaintiff was provided with video relevant to his claim against "Officer Miller" and several statements written by prison officials regarding the incident relevant to this claim. [Doc. No. 203](#). In his Third Amended Complaint, Plaintiff identified this John Doe Defendant as "Officer Miller." [Doc. No. 65](#). Plaintiff never explains how he derived at "Officer Miller" as the John Doe Defendant.¹

¹ In his original administrative grievances related to this claim, Plaintiff had specifically requested the identity of two officers. Defendant Chernosky was identified, but the other officer has never been identified. Plaintiff's Trial Exhibit 1.

In January 2017, after Magistrate Judge Baxter ordered Plaintiff to submit service instructions to the United States Marshal, Defense Counsel endeavored to identify “Officer Miller” by searching the duty roster at the prison, finding that there were seven (7) individuals with the last name Miller employed, but that none of them were working on the date of the incident. [Doc. No. 203](#). Defense Counsel advised Plaintiff to provide more information so that the John Doe/Miller Defendant could be properly identified. *Id.* Plaintiff failed to do so.

It is the Plaintiff’s burden, not Defense Counsel’s, to identify unnamed defendants by seeking information in discovery. *See Veteto v. Miller*, 829 F. Supp. 1486, 1497 (M.D. Pa. 1992). In discovery, Defense Counsel provided substantial information to Plaintiff, who failed to either identify the individual from the discovery given or to request more information. Accordingly, Plaintiff’s Motion to Deem Claims Against John Doe/Miller as Admitted is DENIED.

SO ORDERED, this 7th day of July, 2017,

s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All ECF Registered Counsel of Record
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